

**Freedom of Information Act 2000 (FOIA)  
Environmental Information Regulations 2004 (EIR)**

**Decision notice**

**Date:** 31 August 2018

**Public Authority:** Natural Resources Wales

**Address:** accesstoinformationteam@naturalresourceswales.gov.uk

**Decision (including any steps ordered)**

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1. The complainant requested various pieces of information about dogs on premises and leisure sites. Natural Resources Wales ('NRW'). NRW provided some information and stated other information was not held. During the course of the Commissioner's investigation, NRW disclosed some additional information it located. The Commissioner's decision is that, on the balance of probabilities, NRW does not hold any additional information relevant to the request. However, in failing to comply fully with section 1 within 20 working days the Commissioner finds that NRW breached section 10(1) of the FOIA. The Commissioner does not require any steps to be taken.

**Request and response**

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2. On 27 September 2017 the complainant wrote to NRW and requested information in the following terms:

*"1) The policy (version in use on 16/9/17) dogs on NRW premises/leisure sites in relation to the public and employees/partners/subcontractors/volunteers/franchise staff.*

*2) The specific risk assessments for Coed-y-Brenin (in use 16/9/17) in relation to all of the above groups.*

- 3) The NRW staff handbook (in use on 16/9/17) or any written reference mentioning employees dogs on NRW premises/sites or in the line of work duties".*
3. On 28 September 2017 the complainant wrote to NRW and requested two further items of information in the following terms:
- "4) The number of reported dog bite incidents at CYB in the last 3 years involving attacks by dogs on people and attacks by dogs on other dogs.*
- 5) As above but for other NRW leisure facility sites similar to CYB with dog friendly policies in operation".*
4. NRW responded on 13 October 2017. It stated that it did not hold information relating to parts 1 and 3 of the request and provided information relevant to parts 2, 4 and 5 of the request.
5. On 20 October 2017 the complainant wrote back to NRW and requested an internal review of its handling of the request. She referred to parts 1 and 3 of the request and stated that she considered NRW held information relevant to the requests which it had not disclosed. In support of her view, the complainant referred to the Dog Walking Code and the Partnership Concordant, documents developed in conjunction with NRW. She also indicated that she considered NRW *"has a policy on dogs and in particular in relation to dogs and people mixing on site. It would not be necessary for NRW CYB staff to have completed risk assessments had NRW not had a clear policy about dogs and the risks dogs pose on site".*
6. NRW provided the outcome of its internal review on 31 October 2017. It upheld its position that it did not hold any information relevant to parts 1 and 3 of the request. NRW advised that it did not consider the documents referred to (Dog Walking Code and Partnership Concordant) fell within the scope of the request.

## **Scope of the case**

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7. The complainant contacted the Commissioner on 7 November 2017 to complain about the way her request for information had been handled. She indicated that she considered that NRW held additional information relevant to her request which it had not provided in respect to parts 1 and 3 of her request.

8. During the course of the Commissioner's investigation, NRW disclosed some additional information falling within the scope of the request.
9. The scope of the Commissioner's investigation into this complaint is to establish whether NRW holds any additional information which it has not disclosed either prior to or during her investigation.

## Reasons for decision

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### Interpretation of request

10. In her internal review request the complainant referred to two documents, available on NRW's website, which she considered were relevant to her request but had not been mentioned or provided. These documents are the Dog Walking Code<sup>1</sup> and a Partnership Concordant<sup>2</sup> between NRW, the Kennel Club and the Forestry Commission relating to dogs in woods and forests across England, Wales and Scotland.
11. NRW explained in its internal review response that the documents in question were promoted on its website, and available on its intranet, but it did not consider them to fall within the scope of the request. This is because the documents were not considered to be policies or information which formed part of any staff handbook. The documents in question were either prepared by other parties with input from NRW or an agreement setting out general principles on how NRW works with other parties to promote the responsible use of open spaces by dog walkers.
12. In correspondence with the Commissioner, NRW maintained that it did not consider the Dog Walking Code or the Partnership Concordant to fall within the scope of the request. However, NRW acknowledged that it has a duty to provide reasonable advice and assistance to an applicant making a request for information. It accepted that when it responded to

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<sup>1</sup> <https://naturalresources.wales/media/4862/the-dog-walking-code.pdf>

<sup>2</sup>

[https://www.forestry.gov.uk/pdf/Concordat%28eng\\_language%29.pdf/\\$FILE/Concordat%28eng\\_language%29.pdf](https://www.forestry.gov.uk/pdf/Concordat%28eng_language%29.pdf/$FILE/Concordat%28eng_language%29.pdf)

the request initially, it could have informed the complainant of the existence of the documents in question and provided relevant links or copies.

13. It is the Commissioner's view that public authorities must interpret information requests objectively and should avoid reading into the request any meanings that are not clear from the wording. If the request clearly specifies exactly what information or documents the requester wants, the authority will comply by providing this information (unless it is exempt from disclosure). If an authority receives an unclear or ambiguous FOIA request its duty under section 16 of the FOIA to provide advice and assistance will be triggered and it must ask the requester for clarification
14. The Commissioner considers that the Dog Walking Code or the Partnership Concordant comprise general advice for dog walkers, rather than guidance specifically relating to dogs on NRW premises/leisure sites (which parts 1 and 3 of the request refer to). The Commissioner also understands that the request in this case was submitted shortly after an incident which took place in September 2017 when one of the complainant's children was bitten by a dog at Coed-y-Brenin, an NRW leisure site. The Commissioner considers it was therefore reasonable for NRW to interpret the request to relate to dogs on its premises and leisure sites.
15. Based on the wording of the request, NRW's representations and the background to the request, the Commissioner is satisfied that NRW's interpretation of the request was an objective one and that the Dog Walking Code or the Partnership Concordant did not fall within the scope of the request. However, the Commissioner accepts that it would have been helpful for NRW to have referred to the two documents in its initial responses to the complainant.

## **Section 1 – general right of access**

16. Section 1 of the FOIA states that any person making a request for information is entitled to be informed in writing by the public authority whether it holds information of the description specified in the request and, if that is the case, to have that information communicated to him.
17. In cases where a dispute arises over the extent of the recorded information that was held by a public authority at the time of a request, the Commissioner will consider the complainant's evidence and arguments. She will also consider the actions taken by the authority to check that the information is not held and she will consider any other

reasons offered by the public authority to explain why the information is not held. She will also consider any reason why it is inherently likely or unlikely that information is not held. For clarity, the Commissioner is not expected to prove categorically whether the information was held; she is only required to make a judgement on whether the information was held on the civil standard of the balance of probabilities.

18. As stated earlier in this notice, during the course of the Commissioner's investigation NRW disclosed additional information relevant to the request. The additional disclosure comprised:
  - a) Various emails between NRW and tenant organisations located on the Coed-y-Brenin site about staff bringing dogs onto the site.
  - b) An extract from NRW's intranet site relating to dogs being transported in NRW owned vehicles.
  - c) An extract from NRW's AssetNet system containing information about the dog bite incident involving the complainant's child.
  - d) Emails relating to a competition for 'Most Dog Friendly open space' - NRW's site at Coed-y-Brenin was runner up in the competition.

With the exception of item (d), NRW has acknowledged that the documents listed above fall within the scope of the request and should have been provided at the outset of its handling of the request. NRW does not consider document (d) to be relevant to the request but provided the information as the complainant has specifically raised this point in support of her view that inadequate searches had been conducted.

19. In terms of the searches conducted in order to identify information relevant to the request, NRW advised that contact was made with the manager of the Coed-y-Brenin site and their line manager. They confirmed that there was no NRW specific policy or emails sent to NRW staff concerning dogs on NRW premises or sites. In addition, enquiries were made within NRW's human resources department, the corporate policy team and the Access and Recreation team who also confirmed that there was no specific policy held nor information relating to dogs which formed part of staff handbook. NRW advised that when searching to identify relevant electronic information, it used the following search terms – dog, dog policy, dog guidance. Following concerns raised by the complainant during the course of the Commissioner's investigation, NRW conducted a new search using the word "dog" within its entire document management system. Other than the information which has been disclosed, NRW confirmed that no additional relevant information was identified.

20. In her complaint to the Commissioner the complainant referred to a report she had received from NRW in relation to a complaint she had submitted about the incident involving her child being bitten by a dog on the Coed-y-Brenin site. This report contained a number of references that suggested that NRW did have a 'policy' on dogs at its premises and leisure sites. The Commissioner raised these points with NRW who confirmed that the reference to the word 'policy' within the complaint report referred to an email which had been sent by NRW in March 2017 to staff working on the site at Coed-y-Brenin – tenants on the site (a bike shop and a running shop) and NRW staff based in the visitor centre on the site. The email advised that all dogs should be kept out of public areas or on a lead during business hours. NRW confirmed that the use of the term 'policy' in the Asset Net incident log and the Risk Assessment for the site (disclosed in relation to part 2 of the request) referred to the email sent in March 2017. NRW also confirmed that a follow-up email was sent to staff working on the site after the dog bite incident in September 2017. This follow-up email indicated that following the incident, dogs owned by staff would no longer be allowed on site. NRW have provided copies of these emails to the complainant.
21. NRW confirmed to the Commissioner that it does not have a staff handbook relating specifically to dogs on NRW premises/leisure sites. NRW holds numerous policy documents ranging from corporate policies to people policies which might meet the description of a 'staff handbook'. These documents cover a diverse range of subjects but none relate to dogs on NRW premises/sites.
22. Based on the representations and evidence provided by NRW the Commissioner is satisfied that it has carried out adequate searches of where relevant information would be held. The Commissioner has not seen any evidence of any inadequate search or grounds for believing there is any motive to withhold information relevant to the request. Based on the searches undertaken and the other explanations provided the Commissioner is satisfied that on the balance of probabilities, NRW does not hold any further recorded information relating to the request, other than that which it has disclosed.

## **Section 10 – time for compliance**

23. Section 10(1) of the FOIA requires that a public authority complies with section 1(1) promptly and in any event not later than 20 working days following the date that a request was received. Section 1(1) states that a public authority should confirm whether it holds relevant recorded information and, if so, to communicate that information to the applicant.

24. In this case the request was submitted on 27 September 2017. NRW responded on 13 October 2017 and provided some information relevant to the request and stated other information was not held. During the course of the Commissioner's investigation NRW identified additional information held relevant to the request, which it disclosed to the complainant. As NRW failed to comply fully with section 1(1)(b) within the required timescale it breached section 10(1) of the FOIA.

## Right of appeal

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25. Either party has the right to appeal against this decision notice to the First-tier Tribunal (Information Rights). Information about the appeals process may be obtained from:

First-tier Tribunal (Information Rights)  
GRC & GRP Tribunals,  
PO Box 9300,  
LEICESTER,  
LE1 8DJ

Tel: 0300 1234504

Fax: 0870 739 5836

Email: [GRC@hmcts.gsi.gov.uk](mailto:GRC@hmcts.gsi.gov.uk)

Website: [www.justice.gov.uk/tribunals/general-regulatory-chamber](http://www.justice.gov.uk/tribunals/general-regulatory-chamber)

26. If you wish to appeal against a decision notice, you can obtain information on how to appeal along with the relevant forms from the Information Tribunal website.
27. Any Notice of Appeal should be served on the Tribunal within 28 (calendar) days of the date on which this decision notice is sent.

**Signed .....**

**David Teague**  
**Regional Manager - Wales**  
**Information Commissioner's Office**  
**Wycliffe House**  
**Water Lane**  
**Wilmslow**  
**Cheshire**  
**SK9 5AF**